

**WELTMAN, WEINBERG & REIS CO., LPA**

**By: Cameron Deane, Esq. (Atty.**

**I.D.# 36334-2021)**

**170 S. Independence Mall West, Suite 874W**

**Philadelphia, PA 19106**

**267-940-1643**

**WWR# 041057307**

**Attorneys for Movant: Volvo Car Financial  
Services, LLC**

IN re:

**ASSUNCAO BROS., INC.**

**Debtor**

Case No.: 22-16159-CMG

Hearing Date: March 21, 2023

Chapter: 11

Judge: Christine M. Gravelle

### **WITHDRAWAL OF MOTION**

Kindly withdraw the creditor's Motion for Relief from Automatic Stay filed on February 9, 2023 (docket no.: 195) on behalf of Volvo Car Financial Services, LLC.

Date: March 6, 2023

Weltman, Weinberg & Reis Co., L.P.A.

/s/ Cameron Deane

Cameron Deane, Esquire

Attorney for Movant

170 S. Independence Mall West, Suite 874W

Philadelphia, PA 19106

P: 267-940-1643

F: 215-599-1505

cdeane@weltman.com

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

**WELTMAN, WEINBERG & REIS CO., LPA**

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**STATEMENT UNDER D.N.J. LBR 9013-2 WHY NO MEMORANDUM IS NECESSARY**

The accompanying Motion relies on facts of record and/or presents no novel issues of law and, therefore, the undersigned respectfully contends that no Brief is necessary.

Date: March 6, 2023

Weltman, Weinberg & Reis Co., L.P.A.

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**IN re:**

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Case No.: 22-16159-CMG

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**CERTIFICATION OF COUNSEL IN SUPPORT OF MOTION FOR RELIEF FROM  
AUTOMATIC STAY PURSUANT TO 11. U.S.C. §362**

The undersigned, attorney for Movant, Volvo Car Financial Services, LLC, does hereby certify:

1. I am an attorney at law of the State of New Jersey and an associate with the law firm of Weltman, Weinberg, & Reis, Co., L.P.A.
2. Movant is Volvo Car Financial Services, LLC.
3. Movant is a creditor in the instant bankruptcy case and the assignee of lessor, Smythe Volvo Cars, who did lease one (1) 2020 Volvo XC60 bearing VIN # YV4102RLXL1496160 (hereinafter "Property") in which debtor may have an interest, and upon information and belief, may be in the possession and control of the Debtor.
4. The Property is registered in the name of the debtor, Assuncao Bros., Inc.
5. On December 17, 2019, the Debtor and Martin Assuncao entered into a New Jersey Motor Vehicle Lease Agreement (hereinafter "Lease") with Smythe Volvo Cars (hereinafter "Dealer") for the lease and use of the Property. A true and correct copy of the Lease is attached hereto and marked as Exhibit "A".
6. The Lease, pursuant to its terms, was thereafter duly assigned by the Dealer to Movant for good and valuable consideration; Movant is now the holder of the Lease.
7. Movant has not received regular payments due under the terms of the Lease.

8. As of March 31, 2022, the Debtor and co-debtor are in default of their payment obligations to Movant pursuant to the terms and conditions of the Contract as follows:

- a. Total Due: \$2,723.24
- b. Total Arrears: \$4,084.86
- c. Total Payoff: \$41,791.18

9. Movant has determined that the Clean Retail Value of the Property is \$38,625.00 based on the J.D. Power Used Cars/Trucks Guide. Upon information and belief, there does not exist any other encumbrance affecting the Property.

10. Upon information and belief, the Debtor and/or Co-Debtor continue to enjoy the use and possession of the Property.

11. Debtor and Co-Debtor have failed to make payments on said Lease and/or have failed to make the current monthly payments on said Lease since the filing of the Chapter 11 Petition. Such defaults include failure to make payments as shown in the Certification of Post-Petition Payment History submitted herewith.

12. Sufficient cause exists to grant Movant relief from the automatic stay, including but not limited to the following reasons:

- a. The Debtor and Co-Debtor are in default under the terms and conditions of the Lease;
- b. The Lease matures on December 17, 2022, and at that time, the Debtor must either surrender the Property or purchase the Property in accordance with the terms of the lease-end option.

13. Movant requests an order modifying the automatic stay of Bankruptcy Code §362(a) to permit Movant relief from such stay in order to obtain possession and dispose of its Property, namely the 2020 Volvo XC60 bearing VIN # YV4102RLXL1496160 and for such other relief as the Court deems necessary and proper.

14. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: March 6, 2023

/s/ Cameron Deane  
Cameron Deane, Esquire  
Attorney for Movant  
170 S. Independence Mall West, Suite 874W  
Philadelphia, PA 19106  
P: 267-940-1643  
F: 215-599-1505

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY

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### **ORDER VACATING STAY**

The relief set forth on the following pages, number two (2) through two (2) is  
hereby **ORDERED**

(Page 2)

Debtor: ASSUNCAO BROS., INC.

Case No: 22-16159-CMG

Caption of Order: ORDER VACATING STAY

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Upon the motion of **Volvo Car Financial Services, LLC**, or its successors or assignees, under Bankruptcy Code section 362(a) for Relief from the automatic stay as to certain property as hereinafter set forth, and for cause shown, it is

ORDERED that the automatic stay is vacated to permit the movant to pursue the Movant's rights in the personal property described below to the extent and in the manner provided by any applicable contract documents and non-bankruptcy law.

- ☐ Real property more fully described as:
- ☒ Personal property more fully described as:

2020 Volvo XC60 bearing VIN # YV4102RLXL1496160

It is further ORDERED that the movant may join the debtor, co-debtor and any trustee appointed in this case as defendants in its action(s) irrespective of any conversion to any other chapter of the Bankruptcy Code.

It is further ORDERED that the 14-day stay provided by Fed. R. Bankr. P. 4001(a)(3) is waived.

The movant shall serve this Order on the Debtor, Co-Debtor any Trustee and any other party who entered an appearance on the motion.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY

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### CERTIFICATION OF SERVICE

1. I, Cameron Deane, Esquire:

☒ Represent the **Movant** in the above-captioned matter.

☐ Am the secretary/paralegal for \_\_\_\_\_ who represents the **Movant** in the above captioned matter.

☐ Am the **Movant** in the above case and am representing myself.

2. On March 6, 2023, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below:

- Notice of Motion for Relief from Automatic Stay
- Certifications in Support of Motion for Relief from Automatic Stay
- Exhibits attached to Motion for Relief from Automatic Stay
- Proposed Order
- Certification of Service

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: March 6, 2023

/s/ Cameron Deane  
Signature



| Name and Address of Party Served  | Relationship of Party to the Case | Mode of Service  |
|---|-----------------------------------|--|
| Assuncao Bros., Inc.<br>29 Wood Avenue<br>Edison, NJ 08820  | Debtor                            | <input type="checkbox"/> Hand-delivered<br><input checked="" type="checkbox"/> Regular mail<br><input type="checkbox"/> Certified mail/RR<br><input type="checkbox"/> E-mail<br><input type="checkbox"/> Notice of Electronic Filing (NEF)<br><input type="checkbox"/> Other<br><br>(as authorized by the court *)                       |
| Joseph A. Caneco, Esquire<br>Joseph J. DiPasquale, Esquire<br>Michael R. Herz, Esquire<br>Attorney for Debtor<br>Fox Rothschild LLP<br>101 Park Ave, 17th Floor<br>New York, NY 10178 | Attorney for Debtor               | <input type="checkbox"/> Hand-delivered<br><input checked="" type="checkbox"/> Regular mail<br><input type="checkbox"/> Certified mail/RR<br><input checked="" type="checkbox"/> E-mail<br><input checked="" type="checkbox"/> Notice of Electronic Filing (NEF)<br><input type="checkbox"/> Other<br><br>(as authorized by the court *) |
| Scott S. Rever<br>Genova Burns LLC<br>110 Allen Road<br>Ste 304<br>Basking Ridge, NJ 07920  | Chapter 11 Trustee                | <input type="checkbox"/> Hand-delivered<br><input type="checkbox"/> Regular mail<br><input type="checkbox"/> Certified mail/RR<br><input type="checkbox"/> E-mail<br><input checked="" type="checkbox"/> Notice of Electronic Filing (NEF)<br><input type="checkbox"/> Other<br><br>(as authorized by the court *)                       |
| U.S. Trustee<br>US Dept of Justice<br>Office of the US Trustee<br>One Newark Center Ste 2100<br>Newark, NJ 07102  | US Trustee                        | <input type="checkbox"/> Hand-delivered<br><input type="checkbox"/> Regular mail<br><input type="checkbox"/> Certified mail/RR<br><input type="checkbox"/> E-mail<br><input checked="" type="checkbox"/> Notice of Electronic Filing (NEF)<br><input type="checkbox"/> Other<br><br>(as authorized by the court *)                       |

\* May account for service by fax or other means as authorized by the court through the issuance of an Order Shortening Time.